

IN THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

FRENCHMAN’S CREEK
HOMEOWNERS
ASSOCIATION, INC.
PLAINTIFF

VS.

UNDERWRITERS AT LLOYD’S
LONDON
DEFENDANT

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CASE NO. 3-18-cv-357

DEFENDANT’S NOTICE OF REMOVAL TO FEDERAL COURT

COMES NOW DEFENDANT Those Certain Underwriters at Lloyd’s, London Subscribing Severally to Policy No. OUA30000321-00 (Novae Corporate Underwriting Limited, Syndicate 2007) (“Defendant”), and hereby removes this action from the District Court of Galveston County, Texas, 405th Judicial District, to the United States District Court for the Southern District of Texas, Galveston Division, and as grounds therefor would respectfully show as follows:

1. Plaintiff Frenchman’s Creek Homeowners Association, Inc. (“Plaintiff”) filed this suit on September 21, 2018 in the District Court of Galveston County, Texas, 405th Judicial District, Cause No. 18-CV-1316 (the “State Court Suit”). The State Court Suit was served on Defendant on October 12, 2018. In accordance with 28 U.S.C. §1446(a), a true and correct copy of all processes, pleadings and orders, as far as known to Defendant in such action, are attached hereto and made a part hereof. The State Court Suit is a dispute over coverage and amount of losses under an insurance policy, and the Plaintiff alleges breach of contract and violations of the Texas Insurance Code.

2. There is jurisdiction over this removed action pursuant to 28 U.S.C. §1441, because the Court has diversity jurisdiction over this action pursuant to 28 U.S.C. §1332. Diversity of citizenship exists between Plaintiff, a Texas Nonprofit Corporation and Those Certain Underwriters at Lloyd's, London Subscribing Severally to Policy No. OUA30000321-00 (Novae Corporate Underwriting Limited, Syndicate 2007) a company formed under the laws of and domiciled in the United Kingdom with its principal place of business in London, England. The amount in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs.

AMOUNT IN CONTROVERSY

3. Defendant would show that the minimum jurisdictional limits of this Court have also been met and that the amount in controversy exceeds \$75,000. A defendant may perfect a notice of removal based on allegations in the pleadings or facts in the notice. *Chapman v. Powermatic, Inc.*, 969 F.2d 160, 163 n. 6 (5th Cir. 1992).

4. Plaintiff also seeks attorneys' fees. Potential attorneys' fees should be considered when calculating the amount in controversy. *St. Paul Reinsurance v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998).

5. All of the figures above are derived from allegations in Plaintiff's Original Petition and conclusively show that the amount in controversy exceeds the jurisdictional limit of this Court.

6. Specifically, Plaintiff alleges in paragraph III, Claim for Relief 4. "Plaintiff currently seeks monetary relief over \$200,000, but not more than 1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees."

REMOVAL

7. Plaintiff filed the State Court Suit on September 21, 2018. The State Court Suit was served on Defendant by certified mail, return receipt requested on October 12, 2018. A copy

of Plaintiff's Original Petition and the Citation were received by the undersigned on September 27, 2018; however, the undersigned did not have authority to accept service and advised Plaintiff's counsel of this upon receipt of Plaintiff's Original Petition and Citation. This Notice of Removal is being filed in the United States District Court for the Southern District of Texas, Galveston Division, pursuant to 28 U.S.C. § 124(b)(2), within thirty (30) days from the date that Defendant first received a copy of Plaintiff's Original Petition and the Citation from which Defendant first determined that the State Court Suit was removable.

8. Pursuant to 28 U.S.C. §1446(d), Defendant will, promptly after the filing of this Notice, give written notice hereof to all adverse parties and will file a copy of this Notice with the District Clerk of Galveston County, Texas.

9. Defendant will file its answer in this action pursuant to Fed. R. Civ. P. 81(c)(2).

EXHIBITS TO REMOVAL

- A. All executed process in the case;
 - B. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
 - 1. Plaintiff's Original Petition;
 - C. Docket sheet;
 - D. An index of matters being filed;
 - E. A list of all counsel of record, including addresses, telephone numbers and parties represented; and
 - F. Civil Cover Sheet
10. There are no orders signed by the state court judge.

CONCLUSION

11. Plaintiff has not demanded a jury in the State Court Suit.
12. The undersigned represents the Defendant.
13. The events giving rise to this suit occurred in Galveston County, Texas, which is in the Southern District of Texas, Galveston Division, of the United States District Court, and is being removed to this Court pursuant to 28 U.S.C. § 1446(a) and 28 U.S.C. § 124(b)(2).
14. This Notice of Removal is being filed in the United States District Court for the Southern District of Texas, Galveston Division, within thirty days from the date that Defendant received a copy of Plaintiff's Original Petition from which defendant first determined that the State Court Suit was removable.

Respectfully submitted,

/s/ Jerrod Lee Rinehart

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**ATTORNEYS FOR DEFENDANT
THOSE CERTAIN UNDERWRITERS AT
LLOYD'S, LONDON SUBSCRIBING
SEVERALLY TO POLICY NO. OUA30000321-**

**00 (NOVAE CORPORATE UNDERWRITING
LIMITED, SYNDICATE 2007)**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was forwarded to all counsel of record pursuant to the applicable Federal Rules of Civil Procedure as follows:

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DATED this 24th day of October, 2018.

/s/ Jerrod Lee Rinehart

Jerrod Lee Rinehart